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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jurgen Baumie

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EXAMINER

CHRZANOWSKI, MATTHEW R

ART UNIT

PAPER NUMBER

2186

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,256	<b>Applicant(s)</b> BAUMIE ET AL.	
	<b>Examiner</b> MATTHEW R. CHRZANOWSKI	<b>Art Unit</b> 2186	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/17/2008</u>  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1, 3, 4, 7** rejected under 35 U.S.C. 103(a) as being unpatentable over **Min (US Patent # 5936917, hereinafter "Min")**.

Consider **claim 1**, Min discloses a method for synchronizing subcode time codes and sector addresses of data contained on a recording medium for the communication between a data processing system and a micro controller (*abstract, FIG. 1-4*), comprising the steps of:

sending a number of sectors from the micro controller to the data processing system; requesting information about the sector headers of the received sectors from the data processing system; and calculating the

difference between the subcode time codes and the sector addresses using the information about the sector headers (*abstract; FIG. 1-4; column 3, line 1-column 4, line 4*).

However, Min may not specifically disclose wherein it further comprises the steps of repeating the synchronisation steps for different sessions recorded on the same recording medium. In other words, Claim 1 differs from Min in that more than one session is recorded on the recording medium, and the synchronizations steps of Min are repeated for each session.

Examiner takes official notice, that it is common knowledge for the skilled person in the art, that there exists Multisession CDs, which differ from CD-ROM essentially in that multiple different sessions can be recorded sequentially. It is also common knowledge that for each different session, there is a different TOC on the disc. Min teaches that "the sub-Q code and header act as a lapse from the end of the TOC of the CD-ROM to the position of interest on the CD-ROM (*column 3, lines 1-6*)". It is obvious that this teaching can be applied for each new TOC of a multisession CD, leading each time to the same type of offset problem. When confronted with known multisession CDs, the skilled person in the field would inevitably desire to solve the same problem of Min in this context, meaning for each session. Each of the problems occurring for each different session can obviously be solved by the same synchronizing method as defined in Min, which means that the method of Min can be applied to each of the sessions of a multisession CD. In particular, there is no new technical problem implied by the

fact that the CD would contain several sessions, other than a repetition of the same problem already defined and solved in Min. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to repetitively apply the solution of Min to each of the different sessions of a multisession CD.

Consider **claim 3**, and as applied **to claim 1** above, Min discloses the method further comprising the step of storing the sectors in a memory (*The method includes the providing a read-out command to a controller in the CD-ROM drive, searching for a sub-Q code area of a first frame and reading the sub-Q code of the sub-Q code area according to the read-out command and storing the same, by means of the controller, enabling a decoder in the CD-ROM drive and reading header information which is the primary output from the decoder, by means of the controller, calculating the difference between the stored sub-Q code and the stored header information: abstract; column 2, lines 1-25; column 3, lines 24-25*).

Consider **claim 4**, and as applied **to claim 1** above, Min discloses the method wherein absolute time information conveyed in the sector headers and in absolute time fields of the q-channel of the subcode frame is used for calculating the difference between the subcode time codes and the sector addresses (*S540-S555: FIG. 4*).

Consider **claim 7**, Min discloses Apparatus for synchronizing subcode time codes and sector addresses of data contained on a recording medium for the communication between a data processing system and a micro controller (*abstract, FIG. 1-4*) comprising:

means for sending a number of sectors from the micro controller to the data processing system; means for requesting information about the sector headers of the received sectors from the data processing system; and means for calculating the difference between the subcode time codes and the sector addresses using the information about the sector headers (*abstract; FIG. 1-4; column 3, line 1-column 4, line 4*).

However, Min may not specifically disclose wherein it further comprises the steps of repeating the synchronisation steps for different sessions recorded on the same recording medium. In other words, Claim 1 differs from Min in that more than one session is recorded on the recording medium, and the synchronizations steps of Min are repeated for each session.

Examiner takes official notice, that it is common knowledge for the skilled person in the art, that there exists Multisession CDs, which differ from CD-ROM essentially in that multiple different sessions can be recorded sequentially. It is also common knowledge that for each different session, there is a different TOC on the disc. Min teaches that "the sub-Q code and header act as a lapse from the end of the TOC of the CD-ROM to the position of interest on the CD-ROM

(column 3, lines 1-6)". It is obvious that this teaching can be applied for each new TOC of a multisession CD, leading each time to the same type of offset problem. When confronted with known multisession CDs, the skilled person in the field would inevitably desire to solve the same problem of Min in this context, meaning for each session. Each of the problems occurring for each different session can obviously be solved by the same synchronizing method as defined in Min, which means that the method of Min can be applied to each of the sessions of a multisession CD. In particular, there is no new technical problem implied by the fact that the CD would contain several sessions, other than a repetition of the same problem already defined and solved in Min. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to repetitively apply the solution of Min to each of the different sessions of a multisession CD.

4. **Claim 2** rejected under 35 U.S.C. 103(a) as being unpatentable over **Min (US Patent # 5936917, hereinafter "Min")** as applied to **claim 1** above, and further in view of **Ludtke et al. (PGPUB US 2002/0089517, hereinafter "Ludtke")**.

Consider **claim 2**, and as applied to **claim 1** above, Min discloses the method of claim 1.

However, Min may not specifically disclose the method further comprising the steps of: asking the data processing system for a confirmation of sector reception; and implementing a continuity counter in the data processing system to check if the expected sectors were received.

Ludtke discloses a method of data transmission (*title; abstract*) further comprising the steps of: asking the data processing system for a confirmation of sector reception (*acknowledgement protocol: paragraph [0005]*); and implementing a continuity counter in the data processing system to check if the expected sectors were received (*the continuity counter of data blocks to detect a loss of data blocks: paragraph [0053]*).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an acknowledgment protocol and continuity counter in the system of Min, because this aids data integrity, ensures data is received correctly or not, and can indicate if a resend of data is required. Furthermore, it would have been obvious because a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

### ***Response to Arguments***

5. Applicant's arguments filed 03/12/2009 have been fully considered but they are not persuasive. See above rejections and further explanation below.



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6. In response to applicant's arguments concerning claims 1 and 7, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

7. In response to applicant's arguments concerning claims 1 and 7, the recitation "synchronizing subcode time codes and sector addresses" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In other words, Applicant claims define "synchronizing" as to contain only the steps of sending, requesting and calculating.

8. Applicant argues dependent claims for same reasons as claim 1. See above rejections and response to the claims in question.

9. Applicant argues *Ludkte* does not disclose the preamble of claim 1. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA

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1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Furthermore, see above response concerning the preamble.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW R. CHRZANOWSKI whose telephone number is (571)270-1176. The examiner can normally be reached on M-F 9am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 571-272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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6/9/2009